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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,675	06/30/2000	Robert B. Ogle JR.	P1025	1245

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EXAMINER

NGUYEN, CUONG QUANG

ART UNIT	PAPER NUMBER
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2811

DATE MAILED: 10/02/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/607,675

Applicant(s)

OGLE ET AL.

Examiner

Cuong Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Su et al. (US 6,133,096) in view of Cho et al. (US 6,027,971).

Regarding claims 1, 2, 4, 14, 15, 19, Su et al. discloses a semiconductor memory device comprising : a silicon substrate (1) (Su et al.'s col.3, lines38-40) including a peripheral memory region (90) and a core memory region (70); a transistor formed on the peripheral memory region; one set of dual gate core memory structures (15) formed in the core memory region , the dual gate core memory structures (15) including a stacked layer arrangement of semiconductor layers (7, 10) and a dielectric material layer (9), the dual gate core memory structure having sidewall portions; sidewall spacer structures (21) of silicon nitride (Su et al.'s col.6 lines 13-18) formed on the sidewall portions of dual gate core memory structures. See Su et al. Fig.7B and Fig.15.

Su et al. does not explicitly teach that the silicon nitride for forming spacer structures (21) have the chemical formula of Si₃N₄.

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Cho et al. discloses a semiconductor memory device comprising: a dual gate core memory structure (62) formed in the core memory region; a sidewall spacer structures (68) formed on sidewall portions of the dual gate core memory structures, wherein the sidewall spacer structure formed of silicon nitride (Si_3N_4). Cho's Fig.8A and col.5 lines 63-67.

It is known in the art and also taught by Cho that silicon nitride is usually preferred to Si_3N_4 in semiconductor device. Therefore, it would have been obvious to one of ordinary skill in the art to form sidewall spacer structures of silicon nitride (Si_3N_4) as taught by Cho et al.

It is noted that, claimed structure and structure formed by the combination of Su and Cho are identical, such that both structure include sidewall spacer structures formed from silicon nitride (Si_3N_4 , an anti-reflective coating material). Therefore, it is inherent that, the sidewall spacer structures in above combined device is also capable to protect the stacked layer arrangement during etching operations and is compatible with ion implantation and salicidation fabrication process as claimed device.

When the structure recited in claims reference is substantially identical in structure or composition, or are produced by identical or substantially identical to that of the claims, claimed properties of functions are presumed to be inherent. In re Best, 195 USPQ 430, 433 (CCPA 1977). 1990).

The expressions "dual-purpose" and "being used for lithographic patterning for protecting said stacked layer arrangement during etching operations" In claims 1, 4, 14,

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17, 19 and 21 are considered as intended use limitations and are not considered towards patentability. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentability distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claims 3, 5, 16, 17, 18, Su et al. teaches that the silicon nitride spacer structures (21) being deposited in a thickness of 1000 angstroms. Su et al.'s col.6, lines 13-18.

Regarding claims 20 and 21, as shown in Su et al. 's Fig.15, the silicon nitride spacer also being a pattern formation structure for at least one peripheral memory element.

Response to Amendment

2. Applicant's arguments with respect to claims 1-8 and 12-24 have been considered but are not persuasive.

Applicants argue that none of the applied arts teaches that the spacer structure serves a dual purpose as claimed. In response, as discussed in previous action and above, the limitation "dual-purpose" is considered as an intended use limitation which is not considered towards patentability. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the

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prior art in order to patentability distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The

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Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

5. Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to CUONG Q NGUYEN whose telephone number is (703) 308-1293. The Examiner is in the Office generally between the hours of 6:30 AM to 5:00 PM (Eastern Standard Time) Monday through Thursday.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor TOM THOMAS who can be reached on (703) 308-2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 308-7724.

7. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center Receptionists whose telephone number is 308-0956.



Cuong Nguyen

9/27/02